

REMARKS

Claims 9-24 are pending in the present application. It is respectfully submitted that this response is fully responsive to the Final Office Action dated July 18, 2008.

Claim Rejections - 35 U.S.C. §102

Claims 9-24 were rejected under 35 U.S.C. §102(a) as anticipated by applicants' disclosed prior art ("AAPA").

Applicants respectfully disagree with the examiner's rejection. Accordingly, in view of the following remarks, Applicants request that the rejection of claims 9-24 be withdrawn.

Anticipation requires the disclosure in a single prior art reference of each and every limitation of the claimed invention, arranged as in the claim. However, the AAPA does not disclose either (A) an optimum power intensity calculating unit that calculates an **optimum power intensity setting range** that maintains the predetermined wavelength and falls within a predetermined power intensity variable range, or (B) an optimum temperature calculating unit that calculates an **optimum temperature setting range** that maintains the predetermined wavelength and falls within a predetermined temperature variable range.

For example, according to AAPA shown in Figs. 3A and 3B, in test, **the device is required to operate at the center of power P_Cent**. Fig. 3A meets this requirement and Fig. 3B does not meet the requirement. One reason is because the AAPA does not have the optimum temperature calculating unit described in claim 9. Therefore, in Fig. 3B, there is no optimum temperature setting range that maintains the predetermined wavelength λ and falls within the

predetermined temperature variable range *as long as the device is required to operate at the center of power P_{Cent} .*

Whereas, in the claimed invention, for example, the optimum power intensity setting range calculated by the optimum power intensity calculating unit defined in claim 9 corresponds to the power component range of SETTING RANGE 1 shown in Fig. 4A and that of SETTING RANGE 1' shown in Fig. 4B. Similarly, the optimum temperature setting range calculated by the optimum temperature calculating unit defined in claim 9 corresponds to the temperature component range of SETTING RANGE 1 shown in Fig. 4A and that of SETTING RANGE 1' shown in Fig. 4B. Unlike the AAPA, the setting value generated by the setting value generating unit falls within the power and temperature component range of SETTING RANGE 1 and those of SETTING RANGE 1'. In Fig. 4A, for example, the center of power P_{Cent} is located within SETTING RANGE 1, more specifically, the temperature component range of SETTING RANGE 1. In contrast, in Fig. 4B, the center of power P_{Cent} is located outside of SETTING RANGE 1' more specifically, the temperature component range of SETTING RANGE 1'. Nevertheless, the device of Fig. 4B is handled as being non-defective.

Accordingly, in view of the aforementioned remarks, Applicants request that the anticipation rejection of independent claims 9, 14, 19, and 24 be withdrawn.

Furthermore, Applicants disagree with the Examiner's characterization of the AAPA recited on page 2 of the Advisory Action. In particular, Applicants submit that the setting temperature T_{set} is calculated at step S18. At step S19, it is determined whether the setting temperature T_{set} falls within the temperature variable range. If the answer is YES, the setting

temperature T_{set} is used in tuning at step S22. Then, the error wavelength $\Delta\lambda$, which is the difference between the wavelength obtained after tuning with the setting temperature T_{set} and the target wavelength, is calculated at step S23. Then, it is determined whether the error wavelength $\Delta\lambda$ is within the allowable range at step S24. When the answer is NO, the new T_{cal} is calculated at step S17 and the new setting temperature T_{set} is calculated at step S18. At this time, if the new setting temperature T_{set} falls within the temperature variable range, the same operation as mentioned above is carried out again with the new setting temperature T_{set} . In contrast, if the setting temperature T_{set} is outside of the new setting temperature T_{set} , it is determined that the device is defective at step S25. Accordingly, it is never determined that the device shown in Fig. 3B is normal. In other words, it is always determined that the device shown in Fig. 3B is defective.

Accordingly, in view of this explanation, Applicants request that the Examiner reconsider the rejection of claims 9, 14, and 19.

Furthermore, Applicants submit that the rejection of claims 10-13, 15-18, and 20-23, which depend from claims 9, 14, and 19, respectively, should be withdrawn in view of the remarks above (and the remarks presented in Applicants previously filed responses).

Application No.: 10/614,277
Art Unit: 2828

Submission under 37 CFR §1.114
Attorney Docket No.: 030824

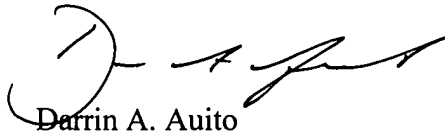
Conclusion

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact the undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

A handwritten signature in black ink, appearing to read 'D. A. Auito', is written over the printed name.

Darrin A. Auito
Attorney for Applicants
Registration No. 56,024
Telephone: (202) 822-1100
Facsimile: (202) 822-1111

DAA/ttw